

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24-04-2015

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THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 386 of 2015
and
M.P. Nos. 1 and 2 of 2015

Premnath

.. Petitioner

Versus

Manoharan

.. Respondent

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. against the Judgment dated 24.01.2014 made in C.A. No.240 of 2012 on the file of the learned V Additional District and Sessions Judge, Coimbatore, confirming the conviction and sentence dated 18.07.2012 made in C.C. No. 1031 of 2009 on the file of the learned Judicial Magistrate-II, Coimbatore.

For Petitioner : Mr. J.Franklin

For Respondent : Mr. Sudhir

ORDER

In the Criminal Complaint filed by the respondent/complainant under Section 138 of the Negotiable Instruments Act, by order dated 18.07.2012 made in C.C. No. 1031 of 2009 on the file of the learned Judicial Magistrate-II, Coimbatore, the petitioner/accused was convicted under Section 138 of the Negotiable Instruments Act. The petitioner was sentenced to undergo one year simple imprisonment and to pay a fine of Rs.5,000/- to the respondent, in default, to undergo simple imprisonment for a period of three months. As against this conviction and sentence imposed on the petitioner, he has filed a Crl.A. No. 240 of 2012 on the file of the learned V Additional District and Sessions Judge, Coimbatore, which was dismissed on 24.01.2014, thereby,

confirming the judgment of the Trial Court. As against the same, the present Criminal Revision Case is filed.

2. In the petition in M.P.No.1 of 2015 seeking to condone the delay, notice to the respondent returnable in four weeks was ordered on 21.04.2015. In the mean while, M.P.No.2 of 2015 was filed seeking to advance the hearing of M.P.No.1 of 2015, since, the matter has been compromised between the parties. Hence, the petition seeking to condone the delay is taken up today and the delay is condoned and the Criminal Revision Case itself is taken up for final disposal.

3. The petitioner has filed an affidavit before this Court stating that the entire amount due in respect of the subject matter of the returned cheque has been given to the respondent and there is no amount due in respect of the subject matter of the revision. The respondent has also filed an affidavit before this Court stating that he has received the amount towards the value of the returned cheque.

4. The learned counsel appearing for the petitioner would submit that since the matter has been settled by the petitioner, which was also endorsed by the respondent, he seeks the permission of this Court to compound the offence under Section 138 of the Negotiable Instruments Act by setting aside the conviction and sentence imposed on the petitioner by the Courts below.

5. The learned counsel appearing for the respondent has no objection for compounding the offence imposed on the petitioner by the Courts below.

6. Considering the fact that the dispute has been settled by the petitioner

by paying the entire amount due in respect of the subject matter of the returned cheque to the respondent and there is no amount due in respect of the subject matter of the revision and the respondent has also filed an affidavit before this Court stating that he has received the amount towards the value of the returned cheque, the respondent/complainant is permitted to compound the offence under Section 138 of the Negotiable Instruments Act against the petitioner as per the decision of the Honourable Supreme Court in (i) *B.M. Joshi vs. State of Haryana* (2003) 4 SCC 675 (ii) *Nikhil Merchant vs. C.B.I.* 2008 (3) SCC CrI 858 (iii) *Jagdish Chanana and others vs. State of Hariyana* 2009 (3) SCC CrI. 1157. Accordingly, following the decisions of the Honourable Supreme Court referred to above, this Court is of the view that the proceedings against the petitioner could be set aside. Consequently, the the Judgment dated 24.01.2014 made in C.A. No.240 of 2012 on the file of the learned V Additional District and Sessions Judge, Coimbatore, confirming the order dated 18.07.2012 made in C.C. No. 1031 of 2009 on the file of the learned Judicial Magistrate-II, Coimbatore, are set aside. The Criminal Revision Case is allowed. Consequently, the connected Miscellaneous Petitions are closed.

7. Taking into consideration of the fact that the Criminal Revision Case itself is allowed as the matter has been settled by the petitioner and the same was endorsed by the respondent, the petitioner, who is confined in Central Prison, Coimbatore, shall be set at liberty forthwith, unless, he is required in connection with any other case.

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Note: Issue Today
Index : Yes / No
Internet : Yes / No

24-04-2015

B.RAJENDRAN,J

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To

1.The V Additional District and Sessions Judge,
Coimbatore.

2.The Judicial Magistrate-II,
Coimbatore.

Crl. R.C. No. 386 of 2015

24-04-2015